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APPENDIX H—DEBARMENT AND SUSPENSION PROCEDURES

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ter 1.

H-100 Scope.

This appendix provides uniform debarment
and suspension procedures to be followed by
all debarring and suspending officials.

H-101 Notification.

Contractors will be notified of the proposed
debarment or suspension in accordance with
FAR 9.406-3 or 9.407-3. A copy of the record
which formed the basis for the decision by
the debarring and suspending official will be
made available to the contractor. If there is
a reason to withhold from the contractor
any portion of the record, the contractor will
be informed of what is withheld and the rea-
sons for such withholding.

H-102 Nature of proceeding.

There are two distinct proceedings which
may be involved in the suspension or debar-
ment process. The first is the presentation of
matters in opposition to the suspension or
proposed debarment by the contractor.

The second is fact-finding which occurs
only in cases in which the contractor's pres-
entation of matters in opposition raises a
genuine dispute over one or more material
facts. In a suspension action based upon an
indictment or in a proposed debarment ac-
tion based upon a conviction or civil judg-
ment, there will be no fact-finding proceeding
concerning the matters alleged in the indict-
ment, or the facts underlying the convic-
tions or civil judgment. However, to the ex-
tent that the proposed action stems from the
contractor's affiliation with an individual or
firm indicted or convicted, or the subject of
a civil judgment, fact-finding is permitted if
a genuine dispute of fact is raised as to the
question of affiliation as defined in FAR
9.403.

H-103 Presentation of matters in op- position.

(a) In accordance with FAR 9.406-3(c) and
9.407-3(c), matters in opposition may be pre-
sented in person, in writing, or through a
representative. Matters in opposition may be
presented through any combination of the
foregoing methods, but if a contractor de-
sires to present matters in person or through
a representative, any written material
should be delivered at least 5 working days
in advance of the presentation. Usually, all
matters in opposition are presented in a sin-
gle proceeding. A contractor who becomes
aware of a pending indictment or allegations
of wrongdoing that the contractor believes
may lead to suspension or debarment action
may contact the debarring and suspending
official or designee to provide information as
to the contractor's present responsibility.

(b) An in-person presentation is an infor-
mal meeting, nonadversarial in nature. The
debarring and suspending official and/or
other agency representatives may ask ques-
tions of the contractor or its representative
making the presentation. The contractor
may select the individuals who will attend
the meeting on the contractor's behalf; indi-
vidual respondents or principals of a business
firm respondent may attend and speak for
themselves.

(c) In accordance with FAR 9.406-3(c) and
9.407-3(c), the contractor may submit mat-
ters in opposition within 30 days from re-
ceipt of the notice of suspension or proposed
debarment.

(d) The opportunity to present matters in
opposition to debarment includes the oppor-
tunity to present matters concerning the du-
ration of the debarment.

H-104 Fact-finding.

(a) The debarring and suspending official
will determine whether the contractor's
presentation has raised a genuine dispute of
material fact(s). If the debarring and sus-
pending official has decided against debar-
ment or continued suspension, or the provi-
sions of FAR 9.4 preclude fact-finding, no
fact-finding will be conducted. If the debar-
ring and suspending official has determined
a genuine dispute of material fact(s) exists, a
designated fact-finder will conduct the fact-
finding proceeding. The proceeding before
the fact-finder will be limited to a finding of
the facts in dispute as determined by the de-
barring and suspending official.

(b) The designated fact-finder will estab-
lish the date for a fact-finding proceeding,
normally to be held within 45 working days
of the contractor's presentation of matters
in opposition. An official record will be made
of the fact-finding proceeding.

(c) The Government's representative and
the contractor will have an opportunity to